IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION

CRIMINAL NO. 1:04CR84-1

UNITED STATES OF AMERICA)	
)	
)	
VS.)	ORDER
)	
)	
MARCOS GONZALES DELGADO)	

THIS MATTER is before the Court on receipt of the Defendant's Financial Affidavit he filed with the Fourth Circuit Court of Appeals, which the Court construes as Defendant's application to proceed on appeal without the prepayment of fees.

The Defendant was initially found to be indigent and was represented by appointed counsel through the trial proceedings. Thereafter, Defendant retained counsel to represent him at sentencing. He now seeks to prosecute his appeal in *forma pauperis*. It is unclear from the record whether or not his counsel at sentencing is continuing to represent him on appeal. The Federal Rules of Appellate Procedure provide that

- [a] party to a district-court action who desires to appeal *in forma pauperis* must file a motion in the district court. The party must attach an affidavit that:
- (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;
 - (B) claims an entitlement to redress; and
 - (C) states the issues that the party intends to present on appeal.

Fed. R. App. P. 24(a)(1). Although the Defendant has provided an affidavit showing inability to pay, he has not stated the issues which he intends to present on appeal. Therefore, the Court finds the appeal is not taken in good faith. As a result, the motion will be denied.

The Defendant is notified that he may renew this motion with the Fourth Circuit Court of Appeals within thirty days of this Order.

IT IS, THEREFORE, ORDERED that the Defendant's motion to proceed on appeal in *forma pauperis* is hereby **DENIED**.

Signed: September 22, 2005

Lacy H. Thornburg United States District Judge